Laws for OLDER ADULTS

Illinois General Assembly
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Laws for Older Adults

Illinois General Assembly
Legislative Research Unit

July 2000

Introduction

This booklet summarizes major Illinois and federal laws and programs for older adults. If a law begins to apply at a particular age, that age is listed in parentheses. Endnotes give citations to all laws described; readers who want more information can use them to find the laws at many public libraries. If your library doesn't have Illinois laws, a state legislator's office can get a copy if given the information in the endnote. The text also lists toll-free numbers to call for many programs, and the back cover gives phone numbers and Internet addresses of offices that help older adults.

Illinois seeks to assure all its residents the opportunity to pursue their lifetime goals to the fullest extent possible. We hope this booklet will help you or someone you know do that.

Patrick D. O'Grady
Executive Director

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"Circuit breaker" property tax aid (65)

"Circuit breaker" grants reimburse eligible homeowners and renters for part of the property taxes they pay. To be eligible, a person must (1) be an Illinois resident; (2) have household income under the limit listed below; (3) be at least 65 by the end of the year, or be disabled; and (4) live in a household that pays property taxes or rent.[1] The income limit in 2000 is $16,000. Starting in 2001 it is $21,218 for a household of one person, $28,480 for two, or $35,740 for three or more.[2]

These provisions apply in some cases:

- The surviving spouse of a person who was eligible for a grant is also eligible, if the survivor was at least 63 when the spouse died and meets the program's other qualifications.
- A person who turns 65 during the year can get a partial grant for that year.
- Persons getting public aid and partial owners of a home, if otherwise eligible, get partial grants.[3]
- 25% of rent paid on an apartment is treated as property tax paid by the renter, if the building owner pays property tax on it.
- Mobile Home Privilege Tax paid is counted as property tax. So is property tax paid on a mobile home and its lot, if the person applying for a grant owns both.[4]

The amount of the grant will be whichever of amounts (1) or (2) below is *smaller*:

(1) Property tax paid by the household in the last year, minus 3.5% of household income that year.

(2) (a) If household income is up to $14,000, $700 minus 4.5% of household income for the year.

(b) If household income is over $14,000, a flat $70.[5]

"Household income" basically means the sum of the federal adjusted gross incomes (AGIs) of all members of the household, plus most income they get that is excluded from federal AGI (such as Social Security, annuity, and public aid payments).[6] Only one grant is payable per household per year.[7] For information on this program, call the Department of Revenue at (800) 624-2459.

Homestead exemption (65)

A homeowner who is, or will become, 65 during an assessment year can get a reduction of $2,000 ($2,500 in Cook County) in the *assessed* value of one residence. (Counties except Cook assess real property at one-third of market value, so this exemption makes $6,000 in market value of a residence tax-free in those counties. Cook County assesses residences at lower percentages of market value, so the exemption protects more of their value.) Special provisions in the law apply to cooperative apartment buildings, residents of life-care facilities, and spouses of persons who formerly qualified but are now in nursing homes.[8] This exemption is in addition to the general homestead exemption,[9] which allows a reduction of up to $3,500 ($4,500 in Cook County) in assessed value of the residence of a taxpayer of any age.

Homestead assessment freeze (65)

A homeowner who is, or will become, 65 during an assessment year can apply for a freeze on the assessed value of the taxpayer's primary home. An applicant cannot have annual household income over $40,000;[10] must be liable for property taxes on the home; and must be its owner or have an interest in it shown by a written document.[11] Special provisions in the law apply to cooperative apartment buildings and life-care facility residents.[12] The house of a person who qualified for the freeze before entering a nursing home continues to be eligible for the freeze so long as it is either owned by the person or occupied by that person's spouse.[13] The spouse of a deceased person who qualified, if ineligible only due to age under 65, can get the freeze for the year before the death and the year of death of the deceased person.[14]

Property tax deferral (65)

A homeowner who is at least 65 by June 1 of a year, with annual household income under $25,000, may have property taxes payable on the home that year deferred. The homeowner must have owned the home, or another qualifying home in Illinois, for at least 3 years, and must sign an agreement with the county for tax deferral and recovery. (The homeowner may continue qualifying for deferral while absent up to 1 year in a nursing or sheltered-care home.) The Department of Revenue will pay the taxes imposed on the home, up to a cumulative total of 80% of the owner's equity in it. After the taxpayer dies, the Department of Revenue will recover from the estate the amount it paid out, including interest at 6% annually.[15]

Tax exclusion on sale (any age)

The exclusion from federal taxable income of gain on sale of a home—formerly available only once and only for persons over

55—is now available to any taxpayer who owned a home and for whom it was the principal residence for a total of at least 2 out of the last 5 years. The exclusion is also available to a couple if at least one of them owned the home and it was the principal residence of both.[16] This exclusion can be used as often as once every 2 years.[17] The maximum gain excludable per sale is $250,000 ($500,000 for a couple filing a joint return).[18] For information on this, call the IRS at (800) 829-1040 or read IRS Publication 523 (available in print and on the Internet at http://www.irs.gov).

Automobile registration fee reduction (65)

Any vehicle owner who has received a "circuit breaker" property owner's grant described earlier, or the vehicle owner's spouse—but not both—can register one passenger car or another motor vehicle of under 8,000 pounds for only $24. The widow(er) of a person who received such a grant is also eligible in the year in which the deceased spouse was eligible.[19] For an application, call the Secretary of State at (800) 252-2904.

Driver's license fee reductions (69)

Illinois driver's license fees are reduced by age, as follows:[20]

Age	*Fee*
21 to 68	$10
69 to 80	5
81 to 86	2
87 +	0

Automobile insurance (55)

The rates of every automobile liability insurance policy are to be appropriately reduced for persons over 55, with no recent accidents, who complete the National Safety Council's Defensive Driving Course or a vehicle accident prevention course approved by the Secretary of State. This does not apply to group automobile insurance under which premiums are averaged for a group rather than determined individually.[21] For information on courses approved by the Secretary of State, call (800) 252-2904.

Camping (62)

On Monday through Thursday each week, state residents 62 or older pay no camping fees at state-operated camping facilities that have no showers or electricity, and pay half of regular fees at facilities having showers or electricity.[22]

College courses (65)

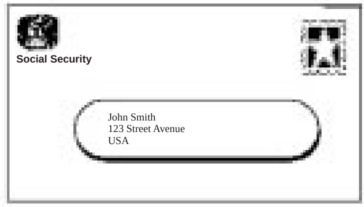
State residents 65 or older, with annual household incomes under $16,000, who have been accepted for admission at an Illinois university or community college, are exempt from tuition in regularly scheduled courses, if enough space is available and enough paying students register to meet the minimum size for a course. This tuition waiver does not apply to courses specifically designed for the elderly.[23]

Social Security payments (62 or 65-67)

Social Security payments include retirement, survivors', and disability benefits. The Social Security Administration also administers a separate program, called Supplemental Security Income, for persons with very low incomes who are over 65, blind, or disabled.

Retirement benefits

Retirement benefits are available for everyone who has worked at least the minimum amount of time under Social Security and



has reached the age of either (a) 62 (for early retirement) or (b) 65 (for regular retirement if born before 1938; see below for persons born later). The monthly benefit depends on the number of years during which Social Security tax was deducted from earnings, and how much the person earned during those years. But persons taking early retirement will get lower monthly benefits for the rest of their lives. For those who take early retirement sometime between 62 and their regular retirement age, that reduction will be pro-rated.

For everyone born between 1938 and 1943, regular retirement age exceeds 65 years by 2 months for each year after 1937 in which they were born. For everyone born from 1943 through 1954, the regular retirement age is exactly 66. It then resumes rising by 2 months for each year of birth after 1954, stopping at 67 for anyone born after 1959.[24]

People who choose not to get Social Security retirement benefits at regular retirement age (because they are still employed full-time, or otherwise do not need the money) are eligible for an increase in eventual Social Security retirement benefits for each year they do not take those benefits, up to age 70. (Applying for Social Security *retirement* benefits is separate from applying for Medicare, and need not occur at the same age.) Working past regular retirement age can also increase later Social Security retirement benefits by building up more credit under Social Security.

Spousal and survivors' benefits

The spouse (in some cases including a divorced spouse) of a person getting retirement benefits is eligible for a separate benefit at age 62 (reduced benefits) or regular retirement age (full benefits). A spouse, or qualifying ex-spouse, who starts getting benefits at regular retirement age is eligible for an amount equal to half the other spouse's regular retirement benefit.

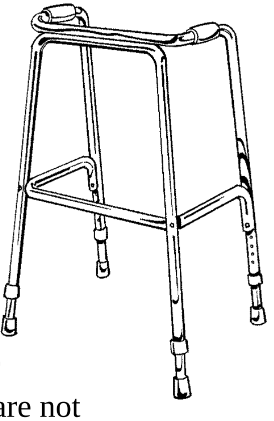
The widow(er) of a deceased beneficiary can start getting early benefits at age 60 (50 if the widow(er) is disabled and meets other conditions). Such a person can get full benefits at age 65 if born before 1940 (that age also will gradually rise for persons born later, reaching 67 for persons born after 1961). A living or deceased beneficiary's unmarried child may also qualify for separate benefits until age 18 (until 19 if still in high school, or until any age if disabled before age 22).[25]

A person intending to retire should apply at the nearest Social Security office, or call the toll-free number below, 90 days before intended retirement (but no earlier than 90 days before turning 62). These offices are listed in most phone directories under "Social Security Administration" and also under the U.S. Government listings. For information on Social Security programs and benefits, call (800) 772-1213 (voice) or (800) 325-0778 (TDD); or on the Internet go to http://www.ssa.gov.

Supplemental Security Income (SSI)

This program, separate from the Social Security retirement and survivors' program, provides monthly income to needy persons who are over 65, blind, or disabled, and have little or no regular income or other assets that could be converted to money. A person getting regular Social Security benefits may also be eligible for SSI.[26] Application for SSI should be made to Social Security offices. A related Illinois program is described next.

Aid to the aged (65), blind, and disabled



This Illinois program provides financial and medical aid to persons who are aged, blind, or disabled, and have modest income and assets. Depending on income and assets, a person may be eligible who is (1) 65 or older, (2) visually impaired so as to be unable to do ordinary tasks, or (3) physically or mentally impaired in working. Some assets are not counted in determining who is eligible for this program. They include the person's home and attached land, an automobile required for work, resources needed for self-support, and burial funds.[27]

Anyone in a nursing home or similar institution who has paid for care in advance is ineligible until the money paid has been used up.[28] There are other restrictions and conditions for eligibility (many of them similar to those for the federal SSI program). Details are available from the Illinois Department of Human Services at (800) 252-8635 (voice) or (800) 526-5812 (TDD).

Reverse mortgages (62)

State law encourages private lending institutions to make "reverse mortgages" that allow homeowners to borrow against the equity in their homes. Typically, an institution lends the homeowner a set amount each month or quarter. The lender will recover the principal and interest from the equity in the residence when the homeowner dies or sells it.

The state laws encouraging reverse mortgages apply to the principal residence that is owned by a person (or the spouse of a person) who is at least 62, if designed for occupancy by no more than 4 families. Any such loan must allow the homeowner to be absent for up to 60 days at a time (or up to 1 year if the home is adequately secured against damage or theft) without affecting the loan. These loans must be without recourse to the homeowner's other assets (meaning that the lender can get repayment only from the residence itself).[29]

Before making a reverse mortgage loan, a lender must give the prospective borrower an information sheet from the Department on Aging describing such loans and how to get independent information on them.[30] Would-be borrowers should carefully consider whether such a loan is the best way to fund their retirement years. The most logical candidate for such a loan might be a retiree who owns a residence but has few other assets; needs additional income; does not expect to live longer than the loan payments will last; and does not need or want to leave the residence to any heirs.

Estates and wills

Every adult with property or minor children should make plans for them, usually in a will. Otherwise the property will be distributed under fixed rules in state law, and a court will award custody of the children without guidance from the parent(s).

The rules in Illinois for distributing property of a person who dies without a will are basically as follows:

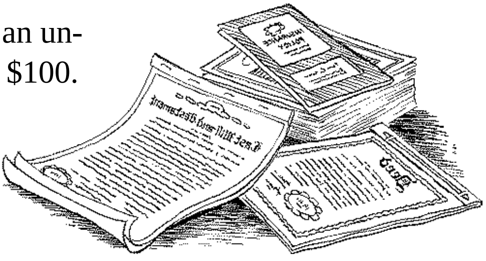
If the person leaves a spouse

Half to spouse and half to descendants if any; if no descendants, all to spouse.

If the person leaves no spouse

All to descendants if any; if none, to parent(s) and sibling(s) (or if any siblings are deceased, to their children); if none, half to each set of grandparents (or descendants of deceased grandparents).[31]

These rules for distribution if there is no will cannot be changed by a court. By contrast, a person who makes a will can give away property in any desired manner—subject only to some restrictions to protect the spouse and child(ren) if any. A will is also the place for parents of minor children to recommend a guardian for them. Such a recommendation is not binding on courts, but the court is likely to follow it unless there is a strong reason not to.



Many lawyers will draw up an uncomplicated will for around $100. An alternative that is better for some people is to set up one or more *inter vivos* trusts (often called “living trusts”). Although more expensive to create, they may simplify administration of an estate. Creating such a trust puts some or all of the owner’s property into a form of ownership (a trust) that is controlled by a trustee (who can be that person or someone else) and held for the benefit of one or more beneficiaries (the heirs). Upon the death of the person owning the property, it can go immediately to the beneficiaries, without probate—although provisions can be made for it to go into the temporary control of another trustee (for example, if the beneficiaries are still minors at the time of death). Lawyers familiar with this area of the law can create trusts for many kinds of purposes.

Legal protections

Age discrimination (40)

Illinois and federal laws prohibit most discrimination due to age, beginning at age 40.

Employment

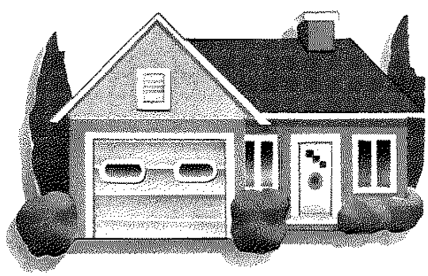
The Illinois Human Rights Act affects all private firms that employ at least 15 persons in the state for at least 20 weeks per year; all firms with public contracts; and all state and local employers. It also applies to employment agencies and unions. Religious bodies are generally exempt.[32]

The Act generally prohibits unfavorable treatment of applicants or employees due to being over age 40.[33] However, an employee 65 or older, who for the last 2 years has been in an executive position and whose annual retirement benefits based on employer contributions would be at least $44,000, can be compulsorily retired.[34] Also, an employer can limit eligibility for an apprenticeship program to persons between 18 and 40.[35]

The federal Age Discrimination in Employment Act applies to any firm "in an industry affecting commerce" (which includes nearly all employers) that employs at least 20 employees for at least 20 weeks per year. It also applies to employment agencies, unions, and state and local governments.[36] It similarly prohibits unfavorable treatment of applicants or employees due to age over 40. It does not prohibit compulsory retirement at age 65 of executives who have pension plans like those described above for the Illinois Human Rights Act.[37] The Act also allows actions under a valid seniority system, employee benefit plan, or voluntary early-retirement incentive plan if they meet standards set in the Act.[38]

You should note that these provisions do not prohibit *all* unfavorable treatment of persons over 40; they prohibit only unfavorable treatment *due to age*. Further, they allow such treatment if it is based on valid, provable grounds such as inability of most persons past a certain age to fill safely the requirements of a rigorous occupation. But the courts require strong evidence before accepting such grounds.

Real estate transactions



The Illinois Human Rights Act prohibits discrimination in real estate transactions by owners, sellers, and brokers due to the age of anyone, starting at 40.[39] The Act also prohibits discrimination because a person is blind or hearing-impaired, or uses a guide dog.[40] Rental of apartments in owner-occupied buildings with up to 5 units, and private sales of single-family homes, are exempt.[41]

Financial transactions

The Illinois Human Rights Act prohibits discrimination due to age in financial transactions.[42] Issuers of credit cards can inquire about age or other factors relevant to such things as probable continuance of income.[43] However, under another law, no issuer may deny a credit card based solely on age.[44]

Public accommodations

The Illinois Human Rights Act prohibits discrimination due to age by businesses providing goods, travel, recreation, and similar services to the general public.[45] Private clubs not connected to places of public accommodation are exempt.[46]

For help with discrimination questions, call the Illinois Department of Human Rights at one of these numbers:

Chicago area	(312) 814-6200
Downstate	(217) 785-5100

Consumer fraud

Ways to avoid fraud

Although consumer fraud can affect persons of almost any age, some perpetrators target retired persons—especially those with homes or other valuable property. They may claim that a house needs costly repairs, or that an investment they are selling is a "sure thing." The best defenses against fraud are asking questions, and checking up on the company a seller claims to represent. Here are some warning signs of fraud:

- Pressure to sign immediately. There is rarely a good reason why a deal can't wait until you think it over and get advice. Pressure to sign suggests that it might not look as attractive if fully investigated.

- Insistence on payment in cash. There is no good reason for a seller to require payment in cash, instead of by check or credit card, for items that are not delivered immediately. Such a demand suggests that the seller is at least trying to evade taxes; and a person who cheats all taxpayers probably would not mind cheating you. Also, getting payment in advance, in cash, will prevent you from stopping payment if the goods do not arrive or are defective, or promised services are not provided.

- Telephone "investment" pitches from strangers. Even if not actually fraudulent, these often give large commissions to sellers, and may get buyers into investments whose risks they do not understand. No one should buy any securities; insurance products sold as investment or retirement plans; land that is too far away to examine; or any other purported investment without getting and reading a detailed description of it **in writing** (often called a "prospectus"). Also, a person who is not an experienced investor should not make an investment before discussing it with a trusted investment advisor.

You should be especially suspicious if a person selling something *promises* much higher returns than are offered by standard interest-paying investments such as money-market funds or bond funds. This is a red flag, warning that the "investment" is much riskier than it seems even if not actually fraudulent.

- Telephone “sweepstakes” offers. Someone may call and claim that you won a big prize, but must pay taxes or “shipping” charges to get it. The caller may then ask you to provide a credit card number or bank account number, or to send a check for “taxes.” A request for payment to receive a “prize” is usually a sign of fraud—as is a claim that you won a contest you haven’t entered. Giving out information such as credit card or bank account numbers, or sending a check, to someone you haven’t heard of is a quick way to be a victim.

- Home repair solicitations. Few reputable repair companies call on homeowners offering to fix their houses. But con artists may go around offering “discounts” on home repair, or claiming to be official “inspectors.” Once inside, they often “find” (or create) major problems that must be repaired at once—by them, of course. No homeowner should let in a stranger without getting adequate identification. Nor should anyone agree to repairs, either orally or in writing, without first getting estimates from other repair businesses.

Anyone who suspects fraud in a business dealing should call the Attorney General’s office at one of these numbers:

Chicago area	(800) 386-5438
Central Illinois	(800) 243-0618
Southern Illinois	(800) 243-0607

Violent crime (60)

Illinois law allows judges to impose heavier penalties for violent crimes if they are committed against persons 60 or over. Causing bodily harm is aggravated battery if the victim is 60 or over, with a possible penalty of up to 5 years in prison.[47] When a person is being sentenced for any felony, if the victim was at least 60 the court can consider that fact as a ground for imposing up to twice the normal maximum term.[48]

Victims who suffer economic loss from violent crime can seek compensation under the Crime Victims Compensation Act.[49] For a victim to be eligible, police must have been notified within 72 hours after the crime (unless good cause for delay is shown); the victim must have cooperated fully with them; and the victim must file an application within 12 months afterward.[50] Forms and information are available from the Attorney General's offices in several cities around the state. The main numbers for the program are (312) 814-2581 and (800) 228-3368.

Health-related programs

Medicare

Part A

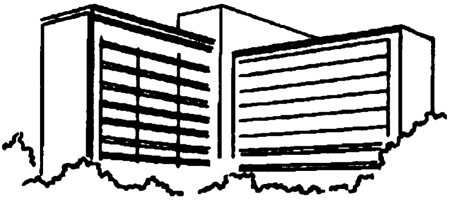
This federal program offers hospital insurance to persons who are 65 or older, or disabled. The following usually qualify for Part A without paying any premiums:

- A person who has worked a total of at least 10 years (whether or not consecutive) under Social Security, and the spouse of such a person, who is at least 65. (Unlike Social Security retirement benefits described earlier, the law sets the age for regular Medicare eligibility at 65 regardless of year of birth.)

- A person under 65 who, for the last 24 months, has qualified for Social Security disability, disabled widow(er)'s, or disabled child's benefits.

- A person with end-stage renal (kidney) disease who has enough work credit under Social Security; and (subject to additional qualifications) the spouse or child under age 25 of such a person.

Persons over 65 who are in none of those categories must pay a monthly premium (it is $301 in 2000).[51] The main enrollment period lasts from 3 months before the month in which a person turns 65, until 3 months after that month.[52] Persons still covered by a group health plan provided by their employer (or spouse's employer) after age 65 should apply for Medicare before that private coverage ends. Persons failing to enroll during one of those periods get an annual chance to enroll, but will miss some benefits until they do.



Part A covers several kinds of medical services. (The description here is of so-called "original" Medicare, a fee-for-service program. Some persons in Medicare may be eligible for optional managed care plans that offer more benefits but may charge extra premiums.):

- Inpatient hospital services for up to 90 days per "spell of illness." That term means a period spent in a hospital or skilled nursing facility, plus the first 60 days after discharge. The patient must pay a deductible amount for each spell of illness. That deductible changes each year (it is $776 in 2000).[53] Thus if a patient is discharged from a hospital, spends at least 60 days at home, but then is hospitalized again, the second hospitalization begins a new spell of illness—requiring payment of a new deductible.

- A total of 60 “lifetime reserve days” of hospitalization that can be used at any time (with payment as described below).
- Extended care (such as in a nursing home) after a hospital stay of at least 3 days, lasting up to 100 days per spell of illness (also with payment as described below).
- Home health services after a hospital stay of at least 3 days, for up to 100 visits per year.
- Limited hospice care.

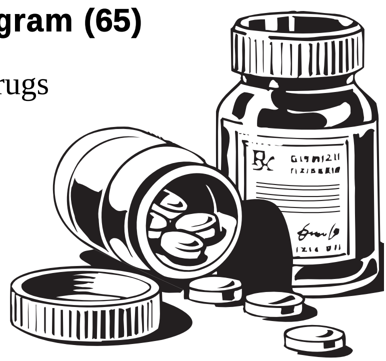
Patients must pay daily coinsurance amounts after certain numbers of days of care. The 2000 amounts are $194 per day in a hospital for days 61 through 90 of each spell of illness; $388 for each lifetime reserve day used; and $97 per day for days 21 through 100 of extended care.[54]

Part B

This optional program offers additional insurance for doctors’ fees for inpatient care; outpatient services; home health services not covered by Medicare Part A; durable medical equipment; and emergency ambulance service. Most persons who are at least 65, or who qualify for Medicare Part A for another reason, can get Part B by applying during their enrollment period (similar to that for Part A) and paying a monthly premium. That premium is $45.50 in 2000.[55] This program will pay 80% of “reasonable” fees as determined by the federal agency administering Medicare, after the patient pays a $100 annual deductible.[56] But a patient will have to pay the provider more than 20% of the "reasonable" fee if the provider charges more than that fee. Providers advertising that they accept Medicare "assignment" have agreed to take Medicare's "reasonable" fee as full payment; their Medicare patients pay only 20% of the "reasonable" fee as a copayment.

The Illinois Department of Insurance's Senior Health Insurance Program can provide information on coverage under Medicare Parts A and B; options for Medicare coverage available to Illinois residents (which may include health maintenance organizations (HMOs) and other nontraditional coverage); and the "Medicare supplement" policies sold by a number of insurance companies. Its number is (800) 548-9034.

Pharmaceutical assistance program (65)



This state program pays for some drugs often prescribed for older persons. **In 2000**, it pays for drugs for cardiovascular problems; prescription drugs for arthritis; and prescription drugs and supplies for diabetes. **In 2001**, the program will add coverage of prescription drugs for cancer, Alzheimer's disease, Parkinson's disease, glaucoma, and lung disease and smoking-related illnesses.[57] To be eligible, a person must (1) be an Illinois resident; (2) have household income less than the limit listed below; and (3) be one of the following: (a) at least 65; (b) the surviving spouse of a person who was eligible (if the survivor was at least 63 when that person died); or (c) disabled. The income limit in 2000 is $16,000. In later years it is $21,218 for a household of one person, $28,480 for two, or $35,740 for three or more.[58] "Household income" basically means the sum of thefederal adjusted gross incomes (AGIs) of all members of the household, plus most income they get that is excluded from federal AGI (such as Social Security, annuity, and public aid payments).[59] Each member of a household who meets the requirements can qualify.[60]

In 2000, a person eligible for this program, whose income is below the federal poverty line, is charged $40 per year and must pay the first $15 per month of prescription costs. Any other eligible person is charged $80 per year and must pay the first $25 of costs per month. In either case, if a person's total prescription benefits during a state fiscal year exceed $800, the person must pay a 20% copayment on prescriptions for the remainder of the fiscal year.[61] Beginning in 2001, an eligible person whose income is below the federal poverty line will pay $5 per year and nothing monthly; a person at or above the poverty line will pay $25 per year and $3 monthly. Also starting in 2001, an eligible person can get up to $2,000 in benefits per fiscal year before 20% copayments begin. (Details for 2001 and later years were still being decided at press time.) For information on this program, call the Department of Revenue at (800) 624-2459.

Older Americans Act and related programs

Federal grants to states support a wide range of programs under the Older Americans Act and other laws. Some funding for these programs also comes from the state and local governments. Services available include adult day care; household chore assistance; group or home-delivered meals; education and training; employment assistance; senior centers; transportation and escort; home visitation; health care; legal assistance; and long-term-care ombudsman services.[62] The Illinois Department on Aging administers many of these programs in cooperation with area agencies on aging. For information on eligibility and services, call the Department at (800) 252-8966 (voice or TDD).

Programs for special health needs

The Department on Aging has a Community Care Program to help older persons avoid going into nursing homes unnecessarily or prematurely. To be eligible, an applicant must be at least 60; show need for long-term care; and have nonexempt assets under $10,000. (A home, personal furnishings, and car, along with a few other kinds of property, are exempt.)[63] The Program offers three basic kinds of services:

- Case management, including assessment of clients and planning services for them.
- "Homemaker" services to help clients with non-medical personal tasks such as bathing, dressing, and grooming; meal preparation; shopping; cleaning; and laundry.
- Adult day services, including social activities and nutritious meals. It may also include health care and nursing services.

The program is available to persons with Alzheimer's disease and other kinds of mental and physical impairment. Information is available at (800) 252-8966 (voice or TDD).

The Illinois Department of Public Health supervises a service network and regional centers for Alzheimer's patients under the Alzheimer's Disease Assistance Act.[64] The state has three regional centers. The Rush Center in Chicago at (312) 942-4463 and the Northwestern Center at (312) 908-9339 serve nine northeastern Illinois counties: Cook, DuPage, Grundy, Kane, Kankakee, Lake, McHenry, Kendall, and Will. The remainder of the state is served by the Southern Illinois University Center in Springfield at (800) 342-5748 (voice) or (217) 782-3318 (TDD). More general information and referrals for the state's various Alzheimer's programs are available from the Department on Aging at (800) 252-8966 (voice or TDD).

A demonstration project for a "Senior Benefits Advocacy Program" providing help in completing paperwork and complying with procedures to participate in public benefit programs is now being offered through two Area Agencies on Aging in the Chicago area (in Chicago and Oak Park).[65] Other Area Agencies on Aging statewide can offer similar help in applying for public benefits.

Nursing home regulation and costs

Illinois' Nursing Home Care Act[66] is designed to protect the health, safety, and civil rights of persons in nursing homes who may be unable to protect themselves. The Illinois Department of Public Health enforces the Act. Many nursing homes are also extensively regulated under the federal Medicare and/or state Medical Assistance (medicaid) programs.

Classification of facilities

Nursing homes, legally called "long-term care facilities,"[67] are classified in laws by the level of medical and other services they offer. A "skilled nursing facility" provides continuous nursing care 24 hours a day for a serious or long-term illness.[68] An "intermediate care facility" provides a moderate level of care, for people who have long-term physical problems that have stabilized. There are also facilities providing lesser levels of care, such as "sheltered care,"[69] for people who can function on their own but need some help with activities such as bathing and eating.

Nearly all privately owned facilities for long-term care, along with homes operated by the Illinois Department of Veterans' Affairs, must be licensed.[70] The Illinois Department of Public Health can suspend, revoke, or refuse to renew a license for a substantial violation of the Act or regulations.[71] Some municipalities also have ordinances licensing nursing homes; in those localities, nursing homes must comply with both state and local requirements.

The Department can visit a nursing home and determine whether it complies with the Act (and a municipality regulating nursing homes may inspect for compliance with its ordinance). Nursing homes are required to keep complete copies of the most recent 5 years' state inspection reports. These reports must be available for public inspection at nursing facilities.[72]

The Attorney General, the local state's attorney, and other agencies enforcing laws must also inform the Department of any violations of which they have knowledge.[73]

Screening of applicants

Persons 18 or older who seek admission to a nursing facility must be screened to determine their need for such services. Also, anyone seeking medicaid coverage for long-term care in a nursing home must be screened before getting such benefits.[74]

Consequences of violations

The Department has several options if it finds that a home violates regulations or ordinances.[75] These include fines that can range from $500 to $10,000 depending on the severity of a violation.[76] Any licensee that intentionally fails to correct a violation; prevents or interferes with the examination of relevant records or evidence; retaliates or discriminates against a resident for providing information to an official about an alleged violation; files false, incomplete, or misleading information; or operates an unlicensed facility can also be fined up to $10,000.[77]

Nursing home agreements and rights of residents

The Act has numerous provisions to protect residents of nursing homes.[78] Before signing an agreement with a nursing home, a person should consult a lawyer, the Social Security office, and/or the local Department of Public Aid office. The major rights stated in Illinois law are summarized below.

Visits

A resident can be visited between 10 a.m. and 8 p.m. by members of the general public, including relatives and representatives of community legal services organizations, unless a visit is for commercial purposes or would threaten residents or facility property. A resident has a right to terminate a visit at any time.[79]

Personal property

Residents may keep personal belongings in their immediate living quarters. The nursing home is to provide space for such property, and a way to protect small valuables either in residents' rooms or in another place to which residents have daily access. The home is to make efforts to prevent loss of residents' property, and have procedures for prompt investigation of complaints of theft.[80] A nursing home is to keep any funds of a resident up to $100 available for the resident's use; any amount beyond $100 is to be put into an interest-bearing account. The resident or resident's guardian is to get at least a quarterly accounting of the home's safekeeping of these funds.[81]

Religion, medical treatment, privacy

Residents are to be allowed free exercise of religion;[82] their choice of personal physicians (at their own expense unless paid for by insurance);[83] and privacy.[84] They are not to be restrained unless medically necessary, and are not to be abused or neglected.[85]

Involuntary transfer or discharge

A nursing home can transfer or discharge a resident against the resident's wishes for only four reasons: (1) medical reasons; (2) the resident's safety; (3) the safety of other residents, the staff, or visitors; or (4) late payment or nonpayment of charges—except as prohibited by the Medicare and medicaid titles of the Social Security Act.[86] A home must generally give a resident 21 days' written notice of a transfer or discharge[87] and discuss it with the resident (except in cases of medical emergency or danger to others).[88] It must offer the resident counseling before a transfer or discharge.[89]

Complaints

A resident may complain to the Illinois Department of Public Health and request an investigation. The request can be made in writing, by telephone, or in person. The Department is to record in writing any oral complaint, and ask for the complainant's name, address, and telephone number. But the Department is required to investigate a complaint even without such identifying information.[90]

Upon receiving a complaint charging abuse or neglect, the Department is to investigate it within 7 days (or if it alleges imminent danger, within 24 hours).[91] Other provisions allow a dissatisfied complainant to request a hearing before a Department hearing officer.[92] Complaints can be made to the Department of Public Health at (800) 252-4343.

The Department now posts on the Internet information on enforcement actions against specific nursing homes. To check whether a home has had any recent enforcement actions, look in the Department's Internet site (http://www.idph.state.il.us).

Paying for care

In a limited number of situations, Medicare will pay for skilled nursing care in a nursing home certified to care for Medicare patients. Veterans may also be eligible for federal benefits to help pay the costs of care in nursing homes.

The Medical Assistance (medicaid) program funded through the Illinois Department of Public Aid will pay for skilled or intermediate nursing care in nursing homes that participate in medicaid, but only for persons with limited incomes and assets.[93] If a person getting medicaid for care in a nursing home is married, the law usually allows the couple to divide their assets, and allows the spouse not in the nursing home to keep some assets without disqualifying the spouse in the nursing home for medicaid. This is referred to as "prevention of spousal impoverishment."[94] The amount that the spouse not in a nursing home can keep is adjusted annually for inflation; it was nearly $82,000 in 1999.[95] That amount is in addition to the couple's house if any, household goods, a car, and a few other kinds of property which the spouse not in a nursing home can also keep without disqualifying the other spouse for medicaid.[96]

Although the Department of Public Aid handles the funding of medicaid, the Department of Human Services assesses persons for eligibility for care in a nursing home under medicaid. It can be contacted at (800) 252-8635 for a referral to one of its local offices for that purpose.

Several insurance companies offer insurance to pay some or all of the costs of care in a nursing home (or in some cases, the costs of in-home care). If you or someone you know would like to buy such insurance, keep in mind that it becomes more expensive—and may even become unavailable—as a person to be insured gets older and in poorer health. Thus it is wise to start looking into such insurance by middle age. (Insurance may still be available around retirement age for a person who is in generally good health, but its cost will be high.) The Department on Aging can give names and phone numbers of companies offering such insurance.

If you want such insurance, be sure to check with several companies and compare their benefits. These policies offer coverage at various levels and for various lengths of time. Persons who are concerned about running out of money while in a nursing home may want to consider a "Partnership" policy, sold by a few insurance companies in Illinois.[97] Such a policy, approved by the Illi-nois Department of Insurance under the Partnership for Long-Term Care Act,[98] covers a particular dollar amount of long-term care. If the policy is kept in force and the insured person eventually needs long-term care, the insurer will pay for it until that dollar limit is exhausted. After that, medicaid will pay for all additional long-term care needed, and the insured can keep savings and invest-ments equal to the dollar amount of insurance that was bought. (If that amount at least equaled the average cost of 4 years' stay in a nursing home, all the person's assets are protected.[99])

However, Partnership policies have several limitations:

- Like other long-term-care policies, they require "medical underwriting"—meaning that applicants can be rejected, or charged more, if they are in poor health.

- Persons whose care in a nursing home is being paid by medicaid must still contribute toward the costs of that care all of their *income* except an amount allowed by federal and state laws.[100]

- The assets of a person who had a "Partnership" policy are not protected after death. The Department of Public Aid can recoup its medicaid payments from the estate of a person for whose care in a nursing home it paid, or from the estate of that person's spouse, after both have died.[101]

This program is administered by the Department on Aging jointly with the Departments of Insurance and Public Aid.[102] For information on the program, including names and phone numbers of the companies that offer policies, call the Department on Aging at (800) 252-8966 (voice or TDD). Another information source is the Department of Insurance's Senior Health Insurance Program, (800) 548-9034.

Guardians for disabled adults

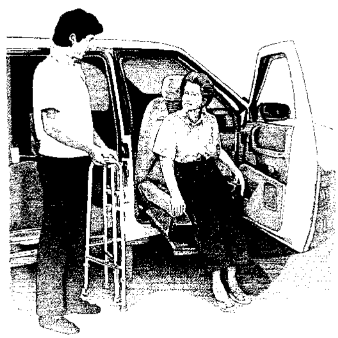
Any person over age 18 who is unable to handle personal health or financial affairs can have a guardian appointed to do so. An adult who is not yet disabled can designate someone to become a guardian in case of later disability.

There are two basic types of guardians:

(1) A “guardian of the person” oversees the person’s physical well-being, including place of residence and way of life. If the person with a guardian has minor or other dependent children, this guardian will normally get custody of them.

(2) A “guardian of the estate” oversees the person’s investments and income, managing them to provide support for the person and for any minor or other dependent children.

A court may appoint either or both kinds of guardians for a person; and the two kinds of guardianship may be exercised by the same or different persons. In every case, guardianship powers are exercised under the general control of the court that appointed the guardian.[103]



A public agency or nonprofit corporation can be appointed as a guardian of the person, estate, or both. A trust company can be appointed guardian of an estate.[104] There is also a Public Guardian in each county, and a State Guardian, who can be appointed if no one else is able and willing to serve.[105]

The law also allows appointment of “standby” and “short-term” guardians for a disabled adult, to act in place of regular guardians who have died or become temporarily unavailable.[106]

An adult “of sound mind and memory” who wants to designate a future guardian or guardians should do so in a formal writing. It is best to have the designation executed and attested in the same way as a will. In any event, relatives and friends should be informed about the designation so they can tell the court if the person becomes unable to take care of personal affairs. The court is not required to choose the designated person(s) as guardian(s), but usually will do so.[107]

The statutory provisions on guardianship are complex, so they should be carefully read and discussed with a legal advisor before being used.

Living wills and powers of attorney

Many people fear someday lying in a hospital unconscious or otherwise unable to make and communicate decisions about their care. Illinois has three laws designed to help with such situations. The first allows creation of a "power of attorney for health care." Any adult, by executing such a document, can delegate authority to an "agent" to make personal medical decisions, starting at a future date or when a stated condition occurs. Powers as to health care that may be delegated include: (l) the right to be informed, (2) the right to consent to treatment; and (3) the right of a parent to control the health care of a minor child. No person who is providing medical care to a patient can act as that patient's agent under this law.[108]

The second law, the Illinois Living Will Act, generally allows any competent adult to order that in case of terminal illness, measures that would only prolong the dying process not be used. It allows the making of a "declaration," whose suggested text says in crucial part:

> If at any time I should have an incurable and irreversible injury, disease, or illness judged to be a terminal condition by my attending physician who has personally examined me and has

> determined that my death is imminent except for death delaying procedures, I direct that such procedures which would only prolong the dying process be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, sustenance, or the performance of any medical procedure deemed necessary by my attending physician to provide me with comfort care.[109]

The suggested text of the declaration has other provisions that are not quoted above to save space. A declaration must be signed by the person making it or by someone else at that person's direction, and witnessed by at least two adults.[110] The law allows the declaration to include "other specific directions" in addition to those listed in the law.[111] As examples, a person could require that the declaration take effect only if two physicians declare the illness terminal, or only if the next-of-kin agrees. A lawyer should be asked to check any proposed declaration that includes such added provisions, in case there is a problem with their clarity or effect. Forms containing the suggested text are available from the Illinois Department on Aging.

It is important to keep in mind that a patient can override or revoke such a declaration **at any time, orally or in writing.** The declaration merely speaks for a patient who is unable to communicate.

If you are, or know someone who is, interested in this law, be sure to read it at your local library or ask a lawyer for a copy. Read all nine substantive sections of the law[112] before deciding to make or recommend that someone else make a declaration under it. Not everyone will want to have such a declaration. But the law insures each adult that choice.

If a patient has neither a living will nor a power of attorney for health care, a third law allows a doctor, nurse, or hospital to ask a "surrogate" for the patient to decide whether to forego life-sustaining treatment. The law lists the following order of priority for determining who can be such a surrogate: the patient's guardian of the person if any; spouse; adult son or daughter; parent; adult sibling; adult grandchild; close friend; and guardian of the estate if any.[113] Although this law can help people who have no power of attorney for health care or living will, signing one or both of those documents can reduce uncertainty (and possible litigation) over control of medical treatments.

Notes

The citations below to "ILCS" refer to the Illinois Compiled Statutes, the state's official code of laws, available in many libraries in printed and/or CD-ROM format. As an example of an ILCS citation, "125 ILCS 20/1" would mean chapter 125 of the Illinois Compiled Statutes, act number 20, section 1. A few citations below are to the U.S. Code (the federal code of laws), which many local libraries also have. A citation to a federal law has the form "12 U.S.C. sec. 345." This means Title 12 of the United States Code, section 345.

Other abbreviations used in these notes are:

"sec." or "secs.": section or sections

"ff.": and the following sections

1. 320 ILCS 25/1 ff.
2. 320 ILCS 25/4(a) as amended by P.A. 91-699 (2000)
3. 320 ILCS 25/4(c) and (d).
4. 320 ILCS 25/3.09 as amended by P.A. 91-391 (1999).
5. 320 ILCS 25/4(b).
6. 320 ILCS 25/3.06 and 3.07.
7. 320 ILCS 25/5(c).
8. See 35 ILCS 200/15-170.
9. 35 ILCS 200/15-175.
10. 35 ILCS 200/15-172(c) as amended by P.A. 91-56 (1999).
11. 35 ILCS 200/15-172.
12. 35 ILCS 200/15-172(c), fifth paragraph.
13. 35 ILCS 200/15-172(c), sixth paragraph.
14. 35 ILCS 200/15-172(c), seventh paragraph.
15. 320 ILCS 30/1 ff.
16. 26 U.S.C. subsecs. 121(a) and (b).
17. 26 U.S.C. subsec. 121(b)(3).
18. 26 U.S.C. subsec. 121(b)(1) and (2).
19. 625 ILCS 5/3-806.3 as amended by P.A. 91-37, sec. 40 (1999).
20. 625 ILCS 5/6-118.
21. 215 ILCS 5/143.29.
22. 20 ILCS 805/63a23.
23. 110 ILCS 990/0.01 ff.
24. 42 U.S.C. subsec. 416(*l*).
25. 42 U.S.C. sec. 402.
26. 42 U.S.C. secs. 1381 ff.
27. 305 ILCS 5/3-1 ff.; 89 Ill. Adm. Code secs. 113.1 ff.
28. 305 ILCS 5/3-1.5.
29. 205 ILCS 5/6.1 encourages such loans by banks. Those provisions are adopted by reference in sections dealing with savings and loan associations (205 ILCS 105/1-6c) and credit unions (205 ILCS 305/46.1). The Illinois Housing Development Authority is also authorized to issue reverse mortgage loans (20 ILCS 3805/7.27).
30. 205 ILCS 5/6.1(e).
31. 755 ILCS 5/2-1.
32. 775 ILCS 5/2-101(B).
33. 775 ILCS 5/1-103(Q) and 5/2-102.
34. 775 ILCS 5/2-104(A)(5)(b).
35. 775 ILCS 5/1-103(A).
36. 29 U.S.C. sec. 630.

37. 29 U.S.C. subsec. 631(c).
38. 29 U.S.C. subsec. 623(f)(2).
39. 775 ILCS 5/1-103(Q) and 5/3-102.
40. 775 ILCS 5/3-104.1.
41. 775 ILCS 5/3-106(A) to (C).
42. 775 ILCS 5/1-103(Q) and 5/4-102.
43. 775 ILCS 5/4-104(B).
44. 815 ILCS 140/1a.
45. 775 ILCS 5/1-103(Q) and 5/5-102.
46. 775 ILCS 5/5-103(A).
47. 720 ILCS 5/12-4(b)(10); 730 ILCS 5/5-8-1(a)(6).
48. 730 ILCS 5/5-5-3.2(b)(4)(ii) and 5/5-8-2.
49. 740 ILCS 45/1 ff.
50. 740 ILCS 45/6.1.
51. This and other premium amounts are updated annually on the following Internet page: http://www.medicare.gov/amounts2.html. Another source of most of these amounts is the following pamphlet: U.S. Department of Health and Human Services, Health Care Financing Administration, "Medicare & You 2000" (Pub. HCFA-10050, rev. Jan. 2000).
52. 42 U.S.C. secs. 426 and 1395 ff.; 42 Code of Fed. Regs. secs. 406.1 ff.
53. "Medicare & You 2000," p. 5.
54. 42 U.S.C. secs. 426 and 1395 ff.; 42 Code Fed. Regs. secs. 406.1 ff.; "Medicare & You 2000," p. 5.
55. "Medicare & You 2000," p. 8.
56. 42 U.S.C. secs. 1395j ff.; 42 Code Fed. Regs. secs. 407.1 ff.
57. 320 ILCS 25/3.15 as amended by P.A. 91-699 (2000).
58. 320 ILCS 25/4(a) as amended by P.A. 91-699 (2000)
59. 320 ILCS 25/3.06 and 3.07.
60. 320 ILCS 25/4(f).
61. 320 ILCS 25/4(f).
62. These programs are authorized by 42 U.S.C. secs. 3001 ff., and 20 ILCS 105/1 ff.
63. 89 Ill. Adm. Code secs. 240.810 and 240.815.
64. 410 ILCS 405/1 ff.
65. This program is authorized by 20 ILCS 105/4.10.
66. 210 ILCS 45/1-101 ff.
67. See 210 ILCS 45/1-113, first paragraph.
68. See 42 U.S.C. sec. 1395i-3 (definition for purposes of Medicare program).

69. See 210 ILCS 45/1-124.
70. 210 ILCS 45/3-102 and 45/1-113.
71. 210 ILCS 45/3-119.
72. 210 ILCS 45/3-210.
73. 210 ILCS 45/3-107.1.
74. 210 ILCS 45/2-201.5.
75. 210 ILCS 45/3-303. The types of violations involved are defined in 210 ILCS 45/1-129 and 45/1-130.
76. 210 ILCS 45/3-305(2) and (3), and 45/3-303(a).
77. 210 ILCS 45/3-318.
78. See 210 ILCS 45/2-101 ff.
79. 210 ILCS 45/2-110 and 45/1-121.
80. 210 ILCS 45/2-103.
81. 210 ILCS 45/2-201.
82. 210 ILCS 45/2-109.
83. 210 ILCS 45/2-104.
84. 210 ILCS 45/2-105.
85. 210 ILCS 45/2-106 and 45/2-107.
86. 210 ILCS 45/3-401. A section of the Illinois Act (210 ILCS 45/3-401.1) also prohibits nursing homes that accept medicaid patients from discharging patients because they are on medicaid.
87. 210 ILCS 45/3-402.
88. 210 ILCS 45/3-408.
89. 210 ILCS 45/3-409.
90. 210 ILCS 45/3-702(a).
91. 210 ILCS 45/3-702(d).
92. 210 ILCS 45/3-702(g).
93. See 305 ILCS 5/5-1 ff.
94. See 305 ILCS 5/5-4, second paragraph; 42 U.S.C. subsec. 1396r-5(f); and 89 Ill. Adm. Code sec. 120.379.
95. Department of Human Services, “Nursing Home Services and Information for Couples” (pamphlet, rev. April 1999), p. 5.
96. 42 U.S.C. subsecs. 1396r-5(c)(5) and 1382b(a).
97. See 320 ILCS 35/1 ff.
98. 320 ILCS 35/1 ff.
99. 320 ILCS 35/20(b-5).
100. See 305 ILCS 5/5-4, second paragraph, and 42 U.S.C. subsec. 1396r-5(d).
101. 305 ILCS 5/5-13, first paragraph.
102. 305 ILCS 5/5-2, subd. 10, and 320 ILCS 35/1 ff.

103. 755 ILCS 5/11a-3, 5/11a-17, and 5/11a-18.
104. 755 ILCS 5/11a-5.
105. 755 ILCS 5/13-1 ff. and 20 ILCS 3955/30 and 3955/31.
106. See primarily 755 ILCS 5/11a-3.1, 5/11a-3.2, 5/11a-8.1, 5/11a-18.2, and 5/11a-18.3.
107. 755 ILCS 5/11a-6.
108. 755 ILCS 45/4-1 ff.
109. 755 ILCS 35/3(e).
110. 755 ILCS 35/3(b).
111. 755 ILCS 35/3(e).
112. 755 ILCS 35/1 to 35/9.
113. 755 ILCS 40/25.

NOTES

How to get information from public agencies

Subject or agency	Telephone number
Aging, Department on	(312) 814-2630
	(217) 785-3356
Toll-free, voice or TDD	(800) 252-8966
Automobile fee reductions (Secretary of State)	(800) 252-2904
“Circuit breaker” tax relief	(800) 624-2459
Consumer fraud (Attorney General)	
Chicago area	(800) 386-5438
Central Illinois	(800) 243-0618
Southern Illinois	(800) 243-0607
Crime victims compensation	(312) 814-2581
	(800) 228-3368
Insurance Department:	
Senior Health Insurance Program (SHIP)	(800) 548-9034
Nursing homes	
Medicaid eligibility assessments ... voice	(800) 252-8635
TDD	(800) 526-5812
Regulation	(800) 252-4343
Pharmaceutical assistance	(800) 624-2459
Social Security Administration ... voice	(800) 772-1213
TDD	(800) 325-0778

Selected Internet addresses

Illinois state home page:	http://www.state.il.us
Illinois Department on Aging:	http://www.state.il.us/aging
Illinois Department of Public Health:	http://www.idph.state.il.us
Illinois General Assembly:	http://www.legis.state.il.us
Social Security Administration:	http://www.ssa.gov